

Remarks

Claims 19-40 are now pending in this application. Applicant has presented new claims 19-40 and canceled claims 1-18 to clarify the present invention. Applicant respectfully requests favorable reconsideration of this application.

The Examiner rejected claims 6, 7, 9-11, and 16-18 under 35 U.S.C. § 112, second paragraph. Since the language identified by the Examiner does not appear in newly presented claims 19-40, this rejection is no longer relevant and Applicant respectfully requests its withdrawal.

The Examiner rejected claims 1, 2, 9, 13, and 14 under 35 U.S.C. § 102(b) as being anticipated by British patent 351,845 to Kali et al. The Examiner rejected claims 4-8, 10-12, and 15-17 under 35 U.S.C. § 103(a) as being unpatentable over Kali et al. in view of U.S. patent 2,471,144 to Davy and German patent 1 567 937 to Goodenough et al. The Examiner rejected claim 18 under 35 U.S.C. § 103(a) as being unpatentable over Kali et al. in view of Davy, Goodenough et al. and U.S. patent 3,860,732 to Eisenstadt.

Kali et al. does not disclose the present invention since, among other things, Kali et al. does not disclose a physiological salt food product. Rather, Kali et al. discloses an intermediary substance for the purpose of industrial production of magnesium chloride free of water. For example, lines 60 to 62 on page 1 of Kali et al. clearly show that the ammonium carnallite has no value of its own, only that of a starting material. Kali et al. does not disclose the use of the

substance as an ingredient in food or to the physiological significance of the substance. Along these lines, Kali et al. does not include any disclosure of the terms “physiological” or “food”.

In view of the above, Kali et al. does not disclose all elements of the present invention as recited in newly presented claims 19-40. Since Kali et al. does not disclose all elements recited in newly presented claims 19-40, the present invention, as recited in newly presented claims 19-40, is not properly rejected under 35 U.S.C. § 102(b). For an anticipation rejection under 35 U.S.C. § 102(b) no difference may exist between the claimed invention and the reference disclosure. *See Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q. 841 (C.A.F.C. 1984).

Along these lines, anticipation requires the disclosure, in a cited reference, of each and every recitation, as set forth in the claims. *See Hodosh v. Block Drug Co.*, 229 U.S.P.Q. 182 (Fed. Cir. 1986); *Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir. 1985); *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986); and *Akzo N.V. v. U.S. International Trade Commissioner*, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986).

Kali et al. also does not suggest the present invention for the reasons described above. Along these lines, Kali et al. suggests an intermediary substance for the purpose of industrial production of magnesium chloride free of water rather than a physiological salt food product. discloses. Kali et al. also clearly suggests that the ammonium carnallite only has value as a starting material and does not suggest the use of the substance as an ingredient in food or the physiological significance of the substance.

Combining Kali et al. with Davy and Goodenough et al. does not suggest the present invention since, among other things, Davy and Goodenough et al. do overcome the above-described deficiencies of Kali et al. For example, neither Davy nor Goodenough et al. suggests a physiological salt food product. Additionally, Davy suggests ammonium chloride together with two organic salts, calcium formate and magnesium citrate, or alternatively, with calcium formate and magnesium formate. Davy does not suggest the inorganic physiological salt food product of the present invention. Furthermore, Davy suggests ammonium, magnesium and calcium cations in a totally different context than in the present invention. Along these lines, Davy only suggests some salts as ingredients of a mixture. Significantly, Davy does not suggest any salt where magnesium and ammonium exist together as cations of the same salt.

Additionally, similar to Kali et al., Goodenough et al. only suggests an intermediary substance used in industry. Goodenough et al. emphasizes recovering magnesium chloride for electrolytic production and does not suggest nutritional aspects.

In conclusion, Kali et al. and Goodenough et al. suggest inorganic salts as intermediary substances in an industrial process not aiming at physiological salt production. Also, Davy suggests a salt mixture where magnesium and calcium are brought to the mixture as parts of organic salts. In view of the above, one of ordinary skill in the art would not look to any of these references in producing an inorganic salt having physiological significance and that can be precipitated as crystals of one salt.

The rejection of claim 18 is no longer relevant since the subject matter of this claim is no

longer pending in this application.

The references relied upon in the office action do not disclose or suggest patent features of the present invention. Therefore, references relied upon in the office action do not anticipate the present invention or make the present invention obvious. Accordingly, Applicant respectfully requests withdrawal of the rejections based upon the cited references.

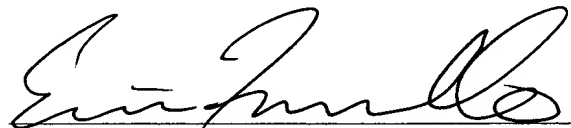
If an interview would facilitate the prosecution of this case, Applicant urges the Examiner to contact the undersigned at the telephone number listed below.

The undersigned authorizes the Commissioner to charge fee insufficiency and credit overpayment associated with this communication to Deposit Account No. 19-5127, 19380.0009.

Respectfully submitted,

Date:

10-27-03



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